

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JANELL WINFIELD, TRACEY STEWART
and SHAUNA NOEL,

Plaintiffs,

-against-

Civil Action No.:

15-CV-5236 (LTS) (KHP)

CITY OF NEW YORK,

Defendant.

April 10, 2018

9:20 a.m.

VIDEOTAPED DEPOSITION of VICKI BEEN, held
at the law offices of the Anti-Discrimination
Center, located at 1745 Broadway, New York, New
York 10019, before Anthony Giarro, a Registered
Professional Reporter and a Notary Public of the
State of New York.

1 VICKI BEEN

2 MR. GURIAN: Okay.

3 THE VIDEOGRAPHER: The time
4 is 12:02. We are off the record.

5 (A short recess was taken.)

6 THE VIDEOGRAPHER: Here
7 begins Video Recording No. 2. The
8 time is 12:12. We are on the record.

9 Q Ms. Been, did you discuss
10 your testimony or upcoming testimony with
11 your attorney during the break?

12 A Just now?

13 Q Yes.

14 A She said --

15 MS. SADOK: No. You don't
16 have to tell him what I said. Just
17 whether or not we discussed testimony
18 or not.

19 A Yes.

20 Q So where we were was what
21 for you was the counterfactual scenario
22 that reducing or eliminating Community
23 Preference would not reduce the amount of
24 Affordable Housing being built. We took
25 it from there.

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2 After, you had said that
3 you'd have to think about whether
4 reducing from 50 would serve the city's
5 interests best or whether sticking with
6 50 would serve the city's interest best.
7 You distinguished two things, I think.
8 One is the actual city -- the actual
9 circumstance that the city finds itself
10 in where it's not on a blank slate where
11 it's currently 50 percent.

12 A Right.

13 Q So your answer in that
14 scenario in terms of how the city's
15 interests would be best served, reducing
16 from 50, not reducing?

17 MS. SADOK: Objection.

18 A I'm sorry. I wouldn't make
19 a decision on the fly in a situation like
20 this. I would need to think it through,
21 do the analysis, think through what --
22 the reason why I raised a concern about,
23 are we lowering it, are we talking in the
24 abstract and writing on a blank slate.

25 When you take something away

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2 from people, they feel differently about
3 it than when they've never had it before;
4 right. So I'd have to think that
5 through, think through the messaging, et
6 cetera. So I'm having a hard time
7 answering just the abstract question. I
8 can tell you how I would think it
9 through. But I would need to then get
10 all that analysis and think it through.

11 Q So now you're not talking
12 about the abstract question being the
13 starting on a clean slate?

14 A Right.

15 Q You're talking about having
16 enough information to be able to make the
17 decision?

18 MS. SADOK: Objection.

19 A Under the scenario that
20 you've posed.

21 Q And sitting here today, you
22 don't have the necessary information?

23 MS. SADOK: Objection.

24 A I haven't thought the
25 question all through in the way that you

1 VICKI BEEN

2 posed it.

3 Q When you say that, you mean
4 both today and at any point prior to
5 today?

6 MS. SADOK: Objection.

7 A You're asking me to assume a
8 counterfactual that I don't believe. No.
9 I never sat down and said if I didn't
10 believe any of the things that I believe,
11 what would I do? I haven't done that.

12 Q That answers the question.

13 So we're going to stick with
14 that same scenario just for another
15 moment. And now we're going to add in
16 one thing which is your only concern is
17 yielding the greatest reduction in racial
18 segregation.

19 Would you keep the Community
20 Preference policy at 50 percent?

21 MS. SADOK: Objection.

22 A I guess what I would say is
23 if I didn't believe that the Community
24 Preference was serving any of the
25 purposes that we've described that we

1 VICKI BEEN

2 think it serves, would I have the
3 Community Preference if my main goal was
4 to reduce the city's racial segregation
5 as much as possible; is that the
6 question?

7 Q No.

8 A Okay. I'm sorry. Where am
9 I going off the rails in terms of your
10 question?

11 Q I understand and the record
12 reflects that there are premises that you
13 don't agree with. I just want to make
14 sure that I can pose the question in a
15 way and you could answer it in a way, so
16 that the question and answer are clear.

17 So we're saying for the
18 purposes of thinking about this question
19 that the absence or a lowered Community
20 Preference would not reduce the amount of
21 Affordable Housing being built and that
22 in this particular circumstance, your
23 only concern, your only policy concern is
24 reducing racial segregation as much as
25 possible. Do you understand those two

1 VICKI BEEN

2 premises?

3 MS. SADOK: Objection.

4 A I think so. So you're
5 assuming that my only concern is reducing
6 racial segregation. So I don't have a
7 concern about displacement. I don't have
8 a concern about fear of displacement.

9 Q I'm not trying to disguise
10 anything. Your only concern is reducing
11 racial segregation to the maximum extent
12 you can.

13 Would you retain a
14 50 percent Community Preference?

15 MS. SADOK: Objection.

16 A I don't think so. But I'd
17 want to be sure that I had gone through
18 all the analysis which I haven't done
19 here today. But I don't think so if it
20 were serving none of those purposes. And
21 my only concern was reducing racial
22 segregation.

23 Q This next document may be a
24 little confusing. So it's going to take
25 a couple of minutes. Ms. Sadok may have

1
2 STATE OF NEW YORK)
3) : ss
4 COUNTY OF NEW YORK)
5
6

7 I, VICKI BEEN, the witness
8 herein, having read the foregoing
9 testimony of the pages of this deposition,
10 do hereby certify it to be a true and
11 correct transcript, subject to the
12 corrections, if any, shown on the attached
13 page.
14

15 Vicki Been
16

VICKI BEEN
17
18
19

20 Sworn and subscribed to before me,
21 this 25th day of May, 2018.
22

23 Kristin E. Silberman
24

Notary Public
25

KRISTIN E. SILBERMAN
NOTARY PUBLIC STATE OF NEW YORK
NEW YORK COUNTY
LIC. #01916137116
COMM. EXP. 2/22/22

ERRATA

I wish to make the following changes, for the following reasons:

PAGE LINE

12 25 CHANGE: "texted" to "e-mailed"

REASON: The City has filed a Declaration by the deponent (ECF Document 362-1) to clarify misstatements by deponent regarding the existence of text messages which, upon subsequent reconsideration and recollection by deponent and explained in greater detail in the aforementioned Declaration, were actually e-mail communications and not text messages.

24 3 CHANGE: "present" to "prevent"

REASON: Deponent stated "prevent" but reporter transcribed incorrectly.

30 10-11 CHANGE: "math" to "map"

REASON: Deponent stated "map" but reporter transcribed incorrectly.

32 20 CHANGE: "forward" to "hard"

REASON: Deponent stated "hard" but reporter transcribed incorrectly.

48 23 CHANGE: "mentioning" to "mandatory"

REASON: Deponent stated "mandatory" but reporter transcribed incorrectly.

72 20-22 CHANGE: "whether -- to the best of my knowledge, I haven't looked at it recently. The new construction..." to "whether-- to the best of my knowledge, I haven't looked at it recently -- the new construction..."

REASON: Clarify intent of statement.

115 18 CHANGE: "there" to "their"

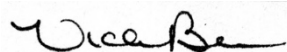
REASON: Clarify intent of statement.

117 20 CHANGE: "rooted" to "routed"

REASON: Deponent stated "routed" but reporter transcribed incorrectly.

231 7 CHANGE: "evaluate" to "evaluated"

REASON: Deponent stated "evaluated" to reflect past tense but reporter transcribed incorrectly.



WITNESS' SIGNATURE

May 25, 2018
DATE